(44)

195○ **File No.** 53/48

RH&BC

Karnatak **DEPARTMENT** G **BRANCH** **B Class**

Subject:— Bombay Building Act 1948 (Control & Erection)

Copies of the file 53/45 B Class common

(P 29/F)

B Class

File No. 53/48

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Karnatak

Labour and Housing Department

Extract from Assistant Secretary's note dated the 17 th February 1950.

"There was a trunk dall from Honourable Minister (Labour and Housing) to Secretary. Honourable Minister has directed that the question of the relaxation of the provisions of the Bombay Building (Control on Erection) Act, 1948 should be examined at once by offiee and Officer on Special Duty and the whole material should be kept ready for discussion with Honourable Minister on Monday, the 20th February 1950. It is the intention of Honourable Minister that if possible the Bombay Building (Control on Erection) Act 1948 should be abolished".

2. The above was discussed this morning between Officer on Special Duty, Assistant Secretary (Mr. Desai) and Superintendent and the followint remarks are offered.

3. The Bombay Building (Control on Erection) Act, 1948 was enacted in 1948 chiefly with a view to providing better housing accommodation securing economic and orderly building development in the areas to which it extended, and conserving the use of specified building materials like cement, iron, steel bricks and asbestos-cement sheets, which were found to be scarce, to the erection or re-erection of essential buildings only. Bearing these objects in view, it has to be examined now how far this Act continues to secure the objects for which it was enacted in the light of changed circumstances if any, obtaining at present.

4. Broadly, the Act controls the erection or re-erection of buildings belonging to two main categories viz. Residential and non-resdential. We may consider first the case of Residential building.

5. Residential buildings.

Under the Act, all persons proposing to erect a residential building in the areas to which the Act extends viz. Bombay City and Suburban, Ahemedabad Cantoment and Municipal Borough, Kalyan Municipal Borough and Thane Taluka, have to get a permit from the Controller of Buildings before starting any work, if the building involves the

use of specified building materials. If, however, the floor area of each residential tenement does not exceed 800 sq.ft. (now relaxed to 1200 sq. ft.), the Controller has to grant up a permit as a matter of course. It was, however, felt of late that such a formality comes in the way of residential building activity in the sense that it retards the expeditious erection of such buildings due to the several formalities required to be complied with under the Act by the prospective builder before he gets his permit. It was also observed that the position about materials has changed considerably. Bricks have been freely available for a long time now and the cement position has eased considerably of late. Indigeneous cement in large quantities is now available and the Government of India is thinking of removing control on cement pending the arival of an agreement as to the selling price of this commodity among the various cement interests concerned. Even the steel and iron shortage is not so acute as before. Taking all these circumstances into consideration, the Special Housing Development Committee considered at its last meeting whether building control on residential buildings with floor area of each tenement upto 1200 sq.ft., should not altogether be removed in the interest of increased building activity. It is understood that the Committee were unanimously of the opinion that these kinds of residential buildings should forthwith be removed from the purview of the Building Control Act. We may go even further than this now in view of the improved position in regard to materials as mentioned above, and perhaps remove all residential buildings irrespective of floor area from the purview of the Act. It is unlikely that just because this control is removed, people will go in for very large residential buildings, because the element of cost comes in. At the most the number of such buildings that may come up will be very few. So far, therefore, as residential buildings go, it would seem that the time has come when it is no longer necessary to control their erection or re-erection under the Building Control Act We may therefore, remove such buildings from the purview ofh

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this Act.

6. Non-residential Buildings

These kinds of building fall under the following broad categories:-

(a) Places of Amusement and Entertainment

(b) Hotels and Boarding Houses

(c) Business and Commercial premises

(d) Public Institutions like schools, colleges, Hostels, public Hospitals etc.

(e) Places of Worship

(f) Industrial buildings

Permits for buildings under (d) are usually always granted under our present permit policy. In other words the Act does not as a rule come in the way of such buildings. As regards buildings under (b) only luxury buildings are banned under our permit policy. It is unlikely that such luxury buildings will spring up in large numbers in future due to the present economic situation in the country. The same is the case with buildings at (e) i.e. places of Worship. They are generally never erected except in places where none exist at present and then too, only if the religious needs of the local population demand them. Hence, so far as the building at (b), (d) and (e) are concerned, the removal of buildings control in respect of these will not, it seems affect the position adversely.

As regards to building at (c) in para. 6 above viz. Business an Commercial premises, we freely permit such buildings where 25% only is to be used for business purposes and the remaining 75% of the buildings is to be used purely for residential purposes. So far as Bombay City is concerned new buildings which will be used exclusively for business purposes will normally spring up in a purely business or office locality only viz. broadly to the South of Carnac Road i.e. the Fort and Colaba Area. There are now not many vacant plots of land in this area and so not very many such buildings which will be used exclusively for business purposes will come up here. As regards other residential or mixed localities it is most unlikely that buildings to be used entirely for business purposes will come up. Having regard

K.G.
24/7.

to the demand for residential accommodation in such localities persons constructing such buildings will usually confine their business premises as such, to the ground, or at most, to the ground and first floors only. The upper floors will almost always provide residential tenements which will fetch a decent income to the buildings. In other words, there is not likely to be great departure from the present permit policy in regard to business and commercial premises even if the present control on such buildings under the Building Control Act is removed. Hence even these kinds of buildings can be removed from the purview of the Act

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8. As regards the kind of buildings mentioned at (a) in para 6 above viz. Places of amusement and Entertainment, we have banned the erection of such buildings not only in the areas to which the Act applies at present, but in the whole of this state. These were considered buildings of a non-essential nature, which could be constructed in better times when materials were freely available. However, not every one thinks of constructing a cinema House, or Swimming Pool or Sports Stadium. Such cases will be few and far between. At a conservative estimate, about 20 such buildings at the most will be constructed in the State in the course of a year. Hence, this category of buildings alone should not, it is submitted be allowed to come in the way of our retaining building control. And in any case, so long as the existing control on steel and iron continues, a check-up on an unduly large amount of such materials that may be used in such buildings, can always be made under the provisions of the existing orders controlling the sale and distribution of steel and iron, and the use of unnecessarily large amounts of such materials prohibited or disallowed. Hence in regard to this category of buildings also viz. Places of Amusement and Entertainment it is submitted that the removal of building control will not lead to any serious repercussion so far as the materials position is concerned.

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9. We come finally to the remaining category of buildings in para 6 above, viz. Industrial buildings. There is now gainsaying fact that the owners of such buildings are by far the largest consumers of specified building materials. If at all, therefore, Building Control is to be retained, it will have to be retained for controlling the erection or re-erection of these kinds of buildings. Even under our permit Policy, there is another aspect of this question which is also taken into account when considering applications particularly in Bombay City and Greater Bombay, and that is the zoning according thereto to the Master Plan. For instance, application for the erection of industrial buildings, in residential or non-industrial zones in the City are never granted in the interests of planned development and the applicants are advised to select another site in the industrial zone either in the city or Greater Bombay. Again, extensions of industrial buildings in industrial or non-industrial zones in the city are granted only if the new factories will be engaged in essential production and then too subject to the condition that 60% of the Labour to be engaged in the extension is provided with residential accommodation. In Greater Bombay and elsewhere, the same policy is to be adopted except that the condition of 60% residential accommodation is not insisted upon. The removal of Building Control in the case of these buildings will therefore endanger not only the supply position in regard to materials but also the planned development of industrial areas according to the Master Plan. It is understood that the comprehensive Bill to enforce strict compliance with the requirements of the Master Plan especially in regard to residential and industrial zoning is under preparation in Health and Local Government Department. In that case, the zoning aspect of buildings control will in future be governed more by legislation on the subject than by our permit policy under the Building Control Act. It would not therefore be out of place to retain building control only for industrial buildings but at the same time to entrust its administration to the Health and Local Government Department or Development Department which would be in a better position to see that all future industrial development would be on lines entirely

~~compatible both with the building Control Act as well as with~~

compatible both with the building Control Act as well as with the ~~building Control Act as well as with~~ legislation about zoning according to the Master Plan. If considered necessary, the Health and Local Government Department and Development Department, may be consulted in the matter. E

10. The immediate points for the consideration of Government are those mentioned at A,B,C,D and E in the paras above. If, on principal, the suggestions made by office are acceptable further action will be taken to implement them in relation to other administrative matters like legislation to be amended establishment of the Controller of Buildings and Supervisors under him etc.etc.

Sd/-

(J.C.Fernandez)
18/2/1950

The office note which has been prepared according to the instructions given by me, deals with the entire position under the Building Control Act.

It may please be seen that the position regarding the supply of essential building materials viz., bricks and cement has improved ~~considerably~~ considerbly. In fact, there is hardly any shortage of these materials. As regards steel, the position regarding supply of this meterials. As regards steele, the position gegarding supply of this material is on the whole very much better than what it was, then the Act was promulgated. Under the circumstances it is necessary to review the entire position and to see if it i not possible to remove the control on building construction altogether.

The office note diesussed the position under the Act regarding various types of buildings to which the Act applies. It shows that as far as residential buildings are concerned, continuance of the present restrictions under the Act have hardly any practical value as permits are, under the pretent orders, being granted for most of the construction that can come under

this category. As regards the types of buildings viz., hotels and boarding houses, public institutions and places of w rship, remova of building control will not make any appreciable difference. Permits for public institutions are already being granted freely. Similarly, construction of hotels and boarding houses for low-income groups an middle class are also being permitted. There will be very few buildings of the type that may not be permitted under these categories under the present orders. Thus, removal of restrictions as far as these type of buildings are concerned, would not affect the present position adversely in any way. The next categories of buildings controlled under the Act are business commercial premises. In this case also there is not likely to be any marked di ference, if the Building Control Act is repeal In fact, there is an acute shortage of office accommodation in Bombay as well as in Ahmedabad to which the Building Control Act applies. I am already considering in what way Government can help in removing the present hardships experienced by people in this respect. In the meanwhile, I think, the least we can do this connection is to remove the present restrictions on t is type construction. Incidentally I may mention that the Municipal Corporation has already requested Government to relax the present restrictions in connection with this type of buildings.

The building Control Act also applies to places of amusement entertainment. I feel that so far as this type of buildings are concerned, we shall have to continue the present restrictions. In case all other categories of buildings are removed from the purview of the Building Control Act, it may not be possible to retain the office of the Building Controller. In that case the work of administration of the Act as far as this type of buildings are concerned, may be entrusted to the local District Magistrate, who may carry it out subject to the control of this Department.

The last category of buildings remaining to be dealt with is that of industrial premises. I think, as far as these buildings are concerned, we do not have any restrictions on ~~xhxxxxxxxxxxx~~

~~kinds of construction in the municipal~~ a their erection in Ahemdabad. As regards Bombay and Suburban District the restrictions were being used to:

(i) restrict all new construction of industrial premises to essential industries only in view of the prevailing congestion in Bombay;

(ii) ensure construction of such essential industries in zones earmarked for the purpose; and

(iii) where new essential industries are being put up the congested area of Bombay city, insist on their promoters' providing residential accommodation for at least 60 percent of their workers.

In case, Building Control Act is to be abolished, some means will have to be found ensuring these requirements. Either the Building Control Act may be retained and made applicable to his category of structures and places of entertainment and amusement and its administration, as far as former type of buildings is concerned, entrusted to the Development Department or some other way of achieving these objects may have to be devised in consultation with Development Department and Health and Local Self Government. I propose that this may be decided in consultation with these Departments.

We may also consider to what extent our present powers for regulating the use of steel can be utilised to control construction of buildings for (i) places of amusement and entertainment and (ii) industrial premises. These structures involve use of large quantities of steel and if the Building Control Act is repealed altogether we would be justified in issuing some orders under Iron and Steel Control order regulating use of Steel in the construction of these types of buildings. The question was considered some time back and R.L.A. who was consulted in the matter has suggested a Draft Oree prohibiting use of iron and steel in the erection of buildings intended to be used as cinema theatres, etc. except with the written permission of the steel control authorities.

The Draft Order may be modified so as to include the use o. steel on industrial premises also. This will help in preventing ~~kmk~~ black market in steel. Modified draft order will be put up if this suggestion is accepted.

Sd/.. N.D.(Artery)
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This was discussed with Honourable Minister. The policy now is to remove control in respect of all buildings except (i) cinema theatres and such other houses of amusement (ii) industri buildings.

2. The Building Control Act needs amendment. In section 1(2) may add "Government of Bombay may by direct that the Act shall apply only in respect of buildings intended to be used for such purpos as may be specified by notification in the Official Gazette". This may be followed up by specifying the above two purposes in a notification. Secondly the proviso and explanation to sub-section(2) of section 4 may be deleted.

3. The change may be given effect to immediately by executive instructions to the Building Controller to permit all buildings except (1) and (2) above in the first para. A Press Note may also issue to say that buildings may be proceeded with unless a refusal is communicated within the time mentioned in section 4(3)

4. As regards buildings at (2) in para1, the Act may be admini stered as follows. The Director of Industries may be appointed Controller for (2) and Government in the Development Department will then have little to do about industrial buildings as their zonal location. Labour Department may however be consulted by Development Department about the general policy as regards industrial workers' housing.

may take up appeals under S.5. The Labour Department will...

5. As regards buildings at (i) in para 1 District Magistrates may be appointed Controllers subject to appeals to Government in Labour Department. Consequent on the above arrangement, the establishment of the present Building Controller may be disbanded in due course.

6. Honourable Minister may see. Perhaps he may mention the changed policy to H.C.M. After para 3 is done, papers may be shown to Development Department as regards para 4 before drafting of legislation is undertaken.

Sd/-.. N.K.D(ravid)
22/2/50

Sd/.. M.P(
23/2

I agree expedite

Sd/.. B.G.Kher.
2/3/50

A. should await circulate and approval of H.C.M.

I agree

This should be circulated to

1. H.M.(L.S.G.)
2. H.M.(D.D.)
3. H.M. (H.D.)

for ~~information~~ immediate attention before submitting to H.C.M.

Sd/.. G.L. N(anda)
27/2

No. 53/48-F,
Labour and Housing Department
Bombay Castle, 6th March 1950.

Immediate

From

N.K.Dravid, Esquire, I.C.S.,
Secretary to the Government of Bombay,
Labour and Housing Department.

To

The Controller of Buildings,
Bombay.

Subject:- The Bombay Building (Control on Erection) Act 1948.

Sir,

I am directed tostate that Government has decided to rescind the present restrictions imposed under the Bombay Building (Control on Erection) Act, 1948, forthwith, in respect of all buildings except (i) Cinema Theatres and such other houses of amusement and (ii) industrial premises in Bombay City, Bombay Suburban District and Thana Taluka of Thana District. Necessary legislation for amending the Act to give effect to this decision is under consideration. In the meantime, I am to request you to grant the necessary permission under the Act immediately toall persons whose applications for erection or extensions of buildings other than those mentioned at (i) and (ii) above are pending with you, unless there are any special points in those applications on which you desireto make a reference to Government. Any such reference may please bexmkemade immediately.

2. As regards application for application for permits for erection of buildings mentioned at (i) and (ii) above, pending issue of further orders about the procedure to be followed and the authorities to whom such application are to be made, they should continue to be dealt with by you in accordance with the present~~xxxxxxx~~ procedure. The orders in this letter apply to buildings to ~~xx~~ be erected ~~xx~~ re-erected extended or altered in all the areas mentioned in the Schedule to the present Act. In this connection, I am to enclose for your information a copy of Press Note which is being

by Government on the subject.

Yours faithfully,

Sd/-

(B.B.Brahmabhatt)
For Secretary to the Government of Bombay,
Labour and Housing Department

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Legislative Assembly Bill No. of 1950

A Bill to amend the Bombay Building (Control on Erection) Act, 1948

Bom. XXX of 1948.

WHEREAS it is expedient to amend the Bombay Building (Control on Erection) Act, 1948, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

Short title and commencement.

1. (1) This Act may be called the Bombay Building (Control on Erection) (First Amendment) Act, 1950.

(2) It shall come into force immediately.

BOM XXXI of 1948

Amendment of section 1 of BOM XXXI of 1948

2. In section 1 of the Bombay Building (Control on Erection) Act, 1948, hereinafter called the said Act,

(1) in sub-section (2),

(i) the existing sub-section shall be renumbered as clause (i) of the said sub-section (1)

the following shall be inserted as clause (ii) namely:-

"The Government of Bombay may be notification in the official Gazette direct that it shall apply only in respect of buildings intended to be used for such purposes as may be specifi in such notification.

Amendment of section 4 of BOM XXXI of 1948

3. In section 4 of the said Act, in Sub-section 2

(i) for the existing provico, the following shall be substituted, namely:-

"Provided that if and when the Government of Bombay directs by a notification issued under clause (ii) of sub-section (2) of section 1, that this Act shall apply in respect of buildings intended to be used for residential purposes, the Controller shall not refuse to grant such permission if he is satisfied that the erection or re-erection is of such a building consisting of one or more tenements each with a floor area not exceeding 1,200 squ feet"

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24/7

(ii) in the Explanation, for the words "this sub-section "occuring therein, the words "the proviso to this sub-sect shall be substituted.

Amendment of various section of BOMXXXI of 1948.

4. In the said Act, wherever the words "Provincial Government" occur the words "Government of Bombay" shall be substituted.

Savings

5. The amendments made in the said Act by the provisions of sections 2 and 3 of this Act shall not have any effect in respect of and apply to any suit or proceeding pending in any court on the date on which this Act comes into force or to execution or other proceedings arising out of any decree or order passed by any court before the date on which this act comes into force and such suit or proceeding shall be continued or instituted and disposed shall be continued or instituted and disposed of, as if this Act had not been passed

Labour and Housing Department
Bombay Castle March 1950.

Bombay Building (Control on Erection) Act, 1948 (Bom XXXI of 1948)

Notification No. 63/48:- In exercise of the powers conferred by clause (ii) of sub-section (2) of section 1 of the Bombay Building (Control on Erection) Act, 1948, as amended by the Bombay Building (Control on Erection) (First Amendment) Act, 1950, the Government of Bombay is pleased to direct that the said Act shall apply, with effect from the date of this notification, in respect of buildings intended to be used for the purposes specified in the Schedule appended hereto:-

Schedule

(1) Cinemas, Theatres and other places of amusement or entertainment.

(2) New Industrial undertakings and extension of existing Industrial undertakings.

By order of the Governor of Bombay,

Secretary to Government.

L. & H.D.
H Br.

Resubmitted with reference to 'A' in SD's note dated the 6th March 1950 on page 14 ante.

2. The accompanying letter to the Commissioner of Bombay Bombay and Ahmedabad may issue. Copies of our Press Note on page 19 ante may also br forwarded to all D.Ms for information. The endorsement on page 19 ante may please be approved.

Id/-
10/3/50

Immediate

No. 53/48-F
L. & H.D.

B.C. MARCH 50

To

The Commissioner of Bombay, Bombay.

Subject:- The Bombay Building (Control on Erection) Act, 1948.

Sir,

In continuation of my letter No. 53/48-F dated the 6th March 1950 on the above subject, I am directed to request you to submit your proposals at a very early date and in any case, written a fortnight, for the winding up of the Ahmedabad Sub-office. The Amending Bill to the Bombay Building (Control on Erection) Act, 1948 for the purpose mentioned in my letter refered tonabove, is expected to be passed during the current session of the legislature and with the enactment of this Bill into an Act, the work of the Ahmedabad Sub-office will cease immediately. The Controller of Building Ahmedabad should be instructed by you to finalise his pending cases in the meanwhile and get ready to hand over the pending work etc.

to the authority or authorities that may be appointed by Government for looking after the remaining work under the Act pertaining to the construction of Cinemas and other places of amusement in Ahmedabad.

2. I am also to request you to keep in readiness your proposals for winding up of your office in Bombay. Final decision in the case of your office will be taken as soon as the authority or authorities in Bombay which should attend to the remaining work under this Act are are finally decided upon.

Ic/-
10/3/50

Copy with copies of the letter No. 63/48 P dated the 6th March 1950 to the Commissioner of Bombay, Bombay and of the Press Note issued on the subject forwarded with compliments to the Commissioner of Bombay, and Ahmedabad, for information and guidance.

No.
53/48-F
Labour and Housing Department
Bombay Castle, 14th March 1950

From

N.K.Dravid,, Esquire, I.C.S.,
Secretary to th Government of Bombay,
Labour and Housing Department.

To

The Controller of Buildings,
Bombay.

Subject:- The Bombay Building (Control on Erection) Act 1948

Sir,

In continuation of my letter no. 53/48 F dated the 6th March 1950, on the above subject, I am directed to request you to submit your proposals at a very early date and, in any case within fortnight for the winding up ~~and xinxanxxxxx~~ of the Ahmedabad Sub-office. The ~~Pending~~ Amending Bill to the Bombay Building (Control on Erection) Act, 1948 for the purposes mentioned in my letter referred to above, is expected to be passed during the current session of the Legislature and with the enactment of this Bill into an Act, the work of the Ahmedabad Sub-Office will ceased immediately. The Controller of Buildings Ahmedabad, should be instructed by you to finalise his pending cases in the meanwhile and get ready to hand over the pending work etc. To the authority or authorities that may be appointed by Government for looking after the remaining work under the Act pertaining to the construction of cinemas and other places of emusement in Ahmedabad.

2. I am also to request you to keep in readiness your proposals for the winding up of your office in Bombay. Final decision in the case of your office will be taken as soon as the authority or authorities in Bombay which should attend to the remaining work under this Act are finally decided upon.

Yours faithfully,

For Secretary to the Government of
Bombay Labour and Housing Department.

No. BS/D.O. 1208 of 1950,
Building Materials Sub- Office,
Kuberdas Building, Relief Road,
Ahmedabad, Date:- 10/3/50

My dear Dattary Sahib,

From the press reports I understand that the Government have decided to close the offices of the Building Controller and to transfer the work after relaxing the Building Control Act to the District Magistrates Concerned. I have however not received any instructions in the matter either from Government or from the Controller of Building, Bombay. As such I am not in a position to reply to parties approaching me for inquiries in the matter.

I do not know what is to be done with the staff working in Building Control Offices at Ahmedabad. Instructions as to what should be done with cases of irregularity or breaches of Building Control Act committed by members of the public so far, and in respect of cases of misuse of residential building by tenements with or without the connivance of the Land Lords. I desire to proceed on ~~X~~ XXX 1 Month's leave from 1st April 1950 for urgent domestic work and I have already applied for leave accordingly. I shall therefore feel obliged if I am informed early in detail on he above points so that my relief on 1st of April 1950 may not be delayed for my not being ready to hand over or close down the office as may be instructed by Government. I have written to Mr. Parekh for informing me in the matter after consulting Ahuja Sahib, but I have not received any reply from him so far and hence the request to you.

I am have submitted an appeal to Government for granting me special pay of Rs. 75/- P.M. with retrospative effect and not from the date of issue of orders. When I have done the work and when Government have saved Rs. 425/- P.M. (Rs. 350/-Pay+Rs 70/- D.A.) by way of pay and D.A. of my predicessor, I hope

'F' Branch
Please put up
suitable reply
Immediately regarding
Building Control,
Re-Palep
The matter may be
Considered in the
usual manner.
Id/-
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Government would consider my appeal favourably by granting me the additional pay for the full period during which I h have done the additional work of Building Controller at A Ahmedabad.

Yours ~~faithf~~ Sincerely,

Id/-

To

N.D.Daftary Esqr.,
B.E., B.S.E.I.,
Deputy Secretary,
Labour and Housing Deprtment,
Secretariat Fort Bombay.

No. 55/48-P,
Labour and Housing Department,
Bombay Castle, 17th March 1950

Forwarded with compliments to all District Magistrates for information with reference to Government Circular Labour Department No. 1809/48/31271-E, dated the 29th September 1949.

By order of the Governor of Bombay,

Sd/-

For Secretary to the Government of Bombay,
Labour and Housing Department.

f.c. may issue over statement signatureof